IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.09.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE S. MANIKUMAR

WRIT APPEAL No.661 of 2006
and WAMP.No.1336 of 2006

President
Chimpalthradi Panchayat
Soolagiri Panchayat Union
Krishnagiri District. .. Appellant/3rd Respondent

vs.

1. R. Ganesan

2. Collector
   Krishnagiri District
   Krishnagiri.

3. Block Development Officer
   (Panchayats) Panchayat Union
   Shoolagiri, Krishnagiri Dt. .. Respondents/Petitioner & Respondents 1 & 2

Writ Appeal filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice Elipe Dharma Rao dated 18.04.2006 made in WPMP.No.7665 of 2006 in W.P.No.11963 of 2004.

WPMP.No.7665/06 in WP.No.11963/04:

Petition presented to this Court to direct the respondents 1 and 2 to pay the amount of Rs.37,200/- or in the alternative to deposit the amount of Rs.37,200/- along with Rs.1,150/- per month to the Panchayat Union Treasury pending upon 11963/04 presented to this Court under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents thereon to permit him to work as a clerk in Chimpalthradi Panchayat Union, Krishnagiri Distirct.

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For appellant : Mr. V. Subbarayan
For respondents : Mr. M.V. Krishnan for R.1
Ms. D. Geetha, AGP for R.2&3

JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

By consent of both parties, the writ appeal itself is taken up for disposal.

2. The writ appeal is directed against the order of the learned single Judge dated 18.04.2006 made in WPMP.No.7665 of 2006 in W.P.No.11963 of 2004, wherein the learned Judge after finding that no counter has been filed by the respondents therein, directed them to pay salary at the rate of Rs.830/- per month for the period of 17 months, totalling Rs.14,110/- and also issued further direction, permitting the petitioner to attend the work and pay salary regularly on par with similarly placed workers. In this regard, it is relevant to refer the relief prayed for in the main writ petition. The petitioner / first respondent herein has prayed for an order in the form of mandamus directing the respondents therein to permit him to work as a clerk in Chimpalthradi Panchayat Office, Shoolagiri Panchayat Union, Krishnagiri District. Unless and until the writ petitioner succeeds in the main writ petition, there cannot be any direction for permitting the petitioner to work as a Clerk in the Panchayat merely because the respondents therein have not filed counter affidavit.

3. The learned counsel appearing for the Panchayat represents that though the counter was prepared and served to the other side, unfortunately the same was not filed before the Court at the appropriate time. Taking note of all these aspects and the relief prayed for in the main writ petition, we are of the view that direction for payment of salary for 17 months and further direction permitting the petitioner to work as a Clerk at this stage cannot be sustained. It is made clear that we are not under-estimating the claim of the writ petitioner, however, the same has to be established and decided in the main writ petition. On this ground, the order of the learned Judge dated 18.04.2006 made in WPMP.No.7665 of 2006 in W.P.No.11963 of 2004, is set aside and the writ appeal is allowed. No costs.

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Inasmuch as the writ petition is of the year 2004 and also taking note of the fact that the contesting third respondent is ready with counter affidavit, post the writ petition itself for final disposal on 30.10.2006 before the concerned Court.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Collector
   Krishnagiri District
   Krishnagiri.

2. The Block Development Officer
   (Panchayats) Panchayat Union
   Shoolagiri, Krishnagiri Dt.

Copy to

The Section Officer,
Writ Section,
High Court, Madras.

1 cc To The Government Pleader, SR.41774.
1 cc To Mr.V.Subbarayan, Advocate, SR.41385.

Writ Appeal No.661 of 2006

AKM(CO)
RVL 19.09.2006

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